

AMENDED IN SENATE AUGUST 10, 2016

AMENDED IN ASSEMBLY APRIL 20, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2138**

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**Introduced by Assembly Members Low and Bonta**

February 17, 2016

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An act to amend Section 17550.20 of the Business and Professions Code, relating to business.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Low. Sellers of travel.

Existing law regulates sellers of travel, as defined, and requires their registration with the Attorney General. Under existing law, a seller of travel is deemed to do business in this state if the seller of travel solicits business from locations in this state or solicits prospective purchasers who are located in this state.

This bill would clarify that a seller of travel is deemed to do business in this state if the seller of travel solicits business from locations in this state regardless of the geographic location of the prospective purchaser including persons located outside of this state or the country.

*This bill would incorporate additional changes to Section 17550.20 of the Business and Professions Code proposed by AB 2106 that would become operative if this bill and AB 2106 are enacted and this bill is enacted last.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17550.20 of the Business and Professions  
2     Code is amended to read:

3     17550.20. (a) Not less than 10 days prior to doing business in  
4     this state, a seller of travel shall apply for registration with the  
5     office of the Attorney General by filing with the Consumer Law  
6     Section the information required by Section 17550.21 and a filing  
7     fee of one hundred dollars (\$100) for each location from which  
8     the seller of travel conducts business. A late fee of five dollars  
9     (\$5) per day, up to a maximum of five hundred dollars (\$500),  
10    shall be paid for each day after the time specified by this section  
11    until the filing fee and the information required by Section  
12    17550.21 are received. No registration shall be issued or approved  
13    until the late fee, and the filing and late fees for each year the seller  
14    of travel operated without being registered, have been paid. A  
15    seller of travel shall be deemed to do business in this state if the  
16    seller of travel solicits business from locations in this state  
17    regardless of the geographic location of the prospective purchaser  
18    including persons located outside of this state or the country or  
19    solicits prospective purchasers who are located in this state.

20    (b) Registration shall be valid for one year from the effective  
21    date thereof shown on the registration issued by the office of the  
22    Attorney General and may be annually renewed by making the  
23    filing required by Section 17550.21 and paying a filing fee of one  
24    hundred dollars (\$100) for each location from which the seller of  
25    travel conducts business. A late fee of five dollars (\$5) per day,  
26    up to a maximum of five hundred dollars (\$500), shall be paid for  
27    each day after the time specified by this section until the filing fee  
28    and the information required by Section 17550.21 are received.  
29    No registration shall be renewed until the late fee, and the filing  
30    and late fees for each year the seller of travel operated without  
31    being registered, have been paid.

32    (c) Whenever, prior to expiration of a seller of travel's annual  
33    registration, there is a material change in the information required  
34    by Section 17550.21, the seller of travel shall, within 10 days, file  
35    an addendum updating the information with the Consumer Law  
36    Section of the office of the Attorney General.

37    (d) (1) Not less than 10 days prior to the transfer or sale of any  
38    interest in a seller of travel, the selling or transferring owner shall

1 file with the office of the Attorney General, Seller of Travel  
2 Program, a notice of encumbrance, sale, or transfer of ownership,  
3 using a form provided for that purpose by the office of the Attorney  
4 General. The notice shall provide the information required pursuant  
5 to subdivision (d) of Section 17550.21 as to each transferee.

6 (2) Until the time the notice of encumbrance, sale, or transfer  
7 of ownership required in paragraph (1) is filed as required, the  
8 selling, encumbering, or transferring owner is responsible for all  
9 acts of and obligations imposed by law on the transferee sellers of  
10 travel to the same extent as they would have been responsible had  
11 there been no transfer, sale, or encumbrance.

12 (e) The office of the Attorney General shall suspend the  
13 registration of any seller of travel who (1) fails to make any  
14 payment required pursuant to Article 2.7 (commencing with  
15 Section 17550.35) or (2) submits a check in payment of a  
16 registration fee or late fee required by this section that is not  
17 honored by the institution on which it is drawn. The Attorney  
18 General shall provide written notice to the seller of travel by  
19 first-class mail at the seller of travel's place of business set forth  
20 in the registration statement that the seller of travel's registration  
21 has been suspended until all fees that are due have been paid. The  
22 registration of the seller of travel shall be suspended until all such  
23 payments due have been collected.

24 (f) The Attorney General may, at his or her discretion and  
25 subject to supervision by the Attorney General or his or her  
26 delegate, contract out all or any part of the processing of  
27 registrations required by this section.

28 (g) This section does not apply to an individual, natural person  
29 who meets all of the following conditions:

30 (1) Has a written contract with a registered seller of travel to  
31 act on that registered seller of travel's behalf in offering or selling  
32 air or sea transportation and other travel goods or services in  
33 connection with the transportation.

34 (2) Acts only on behalf of a registered seller of travel with whom  
35 the person has a written contract in the offer or sale to a passenger  
36 of air or sea transportation and other goods or services in  
37 connection with the transportation and sells no other air or sea  
38 transportation or travel services to that passenger.

39 (3) Provides air or sea transportation or travel services that are  
40 offered or sold pursuant to the official agency appointment of the

1 registered seller of travel with whom the person has a written  
2 contract.

3 (4) Does not receive any consideration for air or sea  
4 transportation or other travel services from the passenger.

5 (5) Requires the passenger to pay all consideration for air or  
6 sea transportation or other travel services directly to the air carrier  
7 or ocean carrier or to the registered seller of travel.

8 (6) Discloses both of the following:

9 (A) The person is acting on behalf of a registered seller of travel.

10 (B) The name, address, telephone number, and registration  
11 number of the registered seller of travel on whose behalf the person  
12 is acting.

13 The person shall make the disclosures required by this paragraph  
14 in writing to the passenger at the same time the passenger receives  
15 notice under Section 17550.13. If the person transacts business in  
16 this state on the Internet, the disclosures also shall appear on the  
17 home page of the person's Web site and shall be prominently set  
18 forth in the first electronic mail message sent to the passenger that  
19 refers to the passenger's purchase of air or sea transportation or  
20 travel services.

21 (h) Whenever the Attorney General determines that a registration  
22 application is accurate and complete, the application shall be  
23 processed and a registration certificate shall be issued to the seller  
24 of travel within 21 days.

25 *SEC. 1.5. Section 17550.20 of the Business and Professions*  
26 *Code is amended to read:*

27 17550.20. (a) (1) Not less than 10 days prior to doing business  
28 in this state, a seller of travel shall apply for registration with the  
29 office of the Attorney General by filing with the Consumer Law  
30 Section the information required by Section 17550.21 and a filing  
31 fee of one hundred dollars (\$100) for each location from which  
32 the seller of travel conducts business. A late fee of five dollars  
33 (\$5) per day, up to a maximum of five hundred dollars (\$500),  
34 shall be paid for each day after the time specified by this section  
35 until the filing fee and the information required by Section  
36 17550.21 are received. No registration shall be issued or approved  
37 until the late fee, and the filing and late fees for each year the seller  
38 of travel operated without being registered, have been paid. A  
39 seller of travel shall be deemed to do business in this state if the  
40 seller of travel solicits business from locations in this state or

1 ~~solicits prospective purchasers who are located in this state, paying~~  
2 ~~the following fees, as applicable:~~

3 (A) ~~A filing fee of one hundred dollars (\$100) for each location~~  
4 ~~from which the seller of travel conducts business.~~

5 (B) ~~A late fee of five dollars (\$5) per day, up to a maximum of~~  
6 ~~five hundred dollars (\$500), for each day after the time specified~~  
7 ~~by this section until the filing fee and the information required by~~  
8 ~~Section 17550.21 are received.~~

9 (2) ~~A seller of travel may annually renew its registration by~~  
10 ~~making the filing required by Section 17550.21 and paying the~~  
11 ~~filing fees and late fees required by paragraph (1).~~

12 (3) ~~A registration shall not be issued, approved, or renewed~~  
13 ~~until the late fee, the filing and late fees for each year the seller~~  
14 ~~of travel operated without being registered, and any outstanding~~  
15 ~~assessments due to the Travel Consumer Restitution Corporation~~  
16 ~~as required by Sections 17550.43 and 17550.44 have been paid.~~

17 (4) ~~A seller of travel shall be deemed to do business in this state~~  
18 ~~if the seller of travel solicits business from locations in this state~~  
19 ~~regardless of the geographic location of the prospective purchaser~~  
20 ~~including persons located outside of this state or the country or~~  
21 ~~solicits prospective purchasers who are located in this state.~~

22 (b) ~~Registration shall be valid for one year from the effective~~  
23 ~~date thereof shown on the registration issued by the office of the~~  
24 ~~Attorney General and may be annually renewed by making the~~  
25 ~~filing required by Section 17550.21 and paying a filing fee of one~~  
26 ~~hundred dollars (\$100) for each location from which the seller of~~  
27 ~~travel conducts business. A late fee of five dollars (\$5) per day,~~  
28 ~~up to a maximum of five hundred dollars (\$500), shall be paid for~~  
29 ~~each day after the time specified by this section until the filing fee~~  
30 ~~and the information required by Section 17550.21 are received.~~  
31 ~~No registration shall be renewed until the late fee, and the filing~~  
32 ~~and late fees for each year the seller of travel operated without~~  
33 ~~being registered, have been paid. General.~~

34 (c) ~~Whenever, prior to expiration of a seller of travel's annual~~  
35 ~~registration, there is a material change in the information required~~  
36 ~~by Section 17550.21, the seller of travel shall, within 10 days, file~~  
37 ~~an addendum updating the information with the Consumer Law~~  
38 ~~Section of the office of the Attorney General.~~

39 (d) (1) ~~Not less than 10 days prior to the transfer or sale of any~~  
40 ~~interest in a seller of travel, the selling or transferring owner shall~~

1 file with the office of the Attorney General, Seller of Travel  
2 Program, a notice of encumbrance, sale, or transfer of ownership,  
3 using a form provided for that purpose by the office of the Attorney  
4 General. The notice shall provide the information required pursuant  
5 to subdivision (d) of Section 17550.21 as to each transferee.

6 (2) Until the time the notice of encumbrance, sale, or transfer  
7 of ownership required in paragraph (1) is filed as required, the  
8 selling, encumbering, or transferring owner is responsible for all  
9 acts of and obligations imposed by law on the transferee sellers of  
10 travel to the same extent as they would have been responsible had  
11 there been no transfer, sale, or encumbrance.

12 (e) (1) *The office of the Attorney General shall suspend the*  
13 *registration of a seller of travel who does any of the following:*

14 (A) *Fails to make any payment required pursuant to Article 2.7*  
15 *(commencing with Section 17550.35).*

16 (B) *Submits a check in payment of a registration fee or late fee*  
17 *required by this section that is not honored by the institution on*  
18 *which it is drawn.*

19 (C) *Fails to provide the file number assigned by the Secretary*  
20 *of State or the Franchise Tax Board to the seller of travel, as*  
21 *required by subdivision (m) of Section 17550.21.*

22 (e)

23 (2) ~~The office of the Attorney General shall suspend the~~  
24 ~~registration of any seller of travel who (1) fails to make any~~  
25 ~~payment required pursuant to Article 2.7 (commencing with~~  
26 ~~Section 17550.35) or (2) submits a check in payment of a~~  
27 ~~registration fee or late fee required by this section that is not~~  
28 ~~honored by the institution on which it is drawn. The Attorney~~  
29 ~~General shall provide written notice to the seller of travel by~~  
30 ~~first-class mail at the seller of travel's place of business set forth~~  
31 ~~in the registration statement that the seller of travel's registration~~  
32 ~~has been suspended until all fees that are due have been paid. The~~  
33 ~~registration of the seller of travel shall be suspended until all such~~  
34 ~~payments due have been collected.~~

35 (f) The Attorney General may, at his or her discretion and  
36 subject to supervision by the Attorney General or his or her  
37 delegate, contract out all or any part of the processing of  
38 registrations required by this section.

39 (g) ~~This section does not apply to an individual, natural person~~  
40 ~~who meets all of the following conditions:~~

1     (g) *This section does not apply to a person who is an individual,*  
2     *a single-member limited liability company whose sole member is*  
3     *an individual, or a single-shareholder "S" corporation whose sole*  
4     *shareholder is an individual, that meets all of the following:*

5     (1) Has a written contract with a registered seller of travel to  
6     act on that registered seller of travel's behalf in offering or selling  
7     air or sea transportation and other travel goods or services in  
8     connection with the transportation.

9     (2) Acts only on behalf of a registered seller of travel with whom  
10    the person has a written contract in the offer or sale to a passenger  
11    of air or sea transportation and other goods or services in  
12    connection with the transportation and sells no other air or sea  
13    transportation or travel services to that passenger.

14    (3) Provides air or sea transportation or travel services that are  
15    offered or sold pursuant to the official agency appointment of the  
16    registered seller of travel with whom the person has a written  
17    contract.

18    (4) Does not receive any consideration for air or sea  
19    transportation or other travel services from the passenger.

20    (5) Requires the passenger to pay all consideration for air or  
21    sea transportation or other travel services directly to the air carrier  
22    or ocean carrier or to the registered seller of travel.

23    (6) Discloses both of the following:

24    (A) The person is acting on behalf of a registered seller of travel.

25    (B) The name, address, telephone number, and registration  
26    number of the registered seller of travel on whose behalf the person  
27    is acting.

28    The person shall make the disclosures required by this paragraph  
29    in writing to the passenger at the same time the passenger receives  
30    notice under Section 17550.13. If the person transacts business in  
31    this state on the Internet, the disclosures also shall appear on the  
32    home page of the person's *Internet* Web site and shall be  
33    prominently set forth in the first electronic mail message sent to  
34    the passenger that refers to the passenger's purchase of air or sea  
35    transportation or travel services.

36    (h) Whenever the Attorney General determines that a registration  
37    application is accurate and complete, the application shall be  
38    processed and a registration certificate shall be issued to the seller  
39    of travel within 21 days.

1     *SEC. 2. Section 1.5 of this bill incorporates amendments to*  
2     *Section 17550.20 of the Business and Professions Code proposed*  
3     *by both this bill and Assembly Bill 2106. It shall only become*  
4     *operative if (1) both bills are enacted and become effective on or*  
5     *before January 1, 2017, (2) each bill amends Section 17550.20 of*  
6     *the Business and Professions Code, and (3) this bill is enacted*  
7     *after Assembly Bill 2106, in which case Section 1 of this bill shall*  
8     *not become operative.*

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